

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Brownells, Inc.,
Petitioner-Appellant,

v.

Poweshiek County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-79-0191

Parcel No. 3260100

Docket No. 11-79-0192

Parcel No. 3466500

On May 15, 2012, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Brownells, Inc. was represented by attorney Jason Craig of Ahlers & Cooney, P.C., Des Moines, Iowa. County Attorney Rebecca L. Petig was counsel for the Board of Review. Assessor Dotty Bates appeared on behalf of the Board of Review at hearing. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Brownells, Inc., owner of property located at 200 South Front Street, Montezuma, Iowa, appeals from the Poweshiek County Board of Review decision reassessing its properties. The real estate was classified commercial for the January 1, 2011, assessment, and valued at a combined value of \$3,697,370. Brownells protested to the Board of Review on the grounds that the property was not equitably assessed as compared to other like properties under Iowa Code section 441.37(1)(a) and that the property was assessed for more than authorized by law under section 441.37(1)(b). The Board of Review granted partial relief and reduced the January 1, 2011, combined assessed value to \$3,246,870.

Brownells then appealed to this Board asserting the same grounds. Brownells now seeks an assessment of \$2,100,000 based on an appraisal of the subject property.

The subject property is a large commercial/industrial facility that has undergone numerous additions and remodels. It has 152,407 square feet and has undergone extensive remodeling and additions since it was built in 1973 until its most recent addition was added in 2010. The site consists of 5.970 acres.

Chad Martin, Brownells' Chief Financial Officer, testified at hearing regarding its operations and the construction of the new addition. Martin did not render an opinion of value. However, he noted that in his opinion, Brownells put more money into the facility than it is worth.

Brownells submitted an appraisal completed by Dane Anderson of CBRE, West Des Moines, Iowa. Anderson also testified on behalf of Brownells. The appraisal was done for ad valorem tax purposes and values the subject property in fee simple as of January 1, 2011, at \$2,050,000. We note Anderson had previously appraised the property as a part of the financing for the new addition. His new appraisal updated the older appraisal. Anderson's sales comparison approach estimate of value was \$1,900,000. His income approach to value was \$2,226,000. Anderson did not develop the cost approach to value. He stated it was beyond the scope of the assignment. Additionally, he believed the cost approach would not be a very reliable indicator of value due to the obsolescence the property suffers.

Anderson's appraisal notes several issues that may limit the subject property's marketability. He notes the subject property is located in a small rural community and may have difficulty finding labor and limits its potential buyers; there is little growth potential; it suffers from an inefficient layout due to the new addition being attached to the existing building by breezeways, and multiple breezeways connect various other parts of the property; and that it has relatively low ceiling heights. He testified the property is not efficient at all and that he had never seen a floor plan so cut up.

Ultimately, Anderson concluded the property is not worth anything near the construction cost and that it did not add significant real estate value.

Anderson used five sales that occurred in 2009 and 2010. The properties were located in Mason City, West Union, Muscatine, Grundy Center, and Grinnell. The sales ranged from \$799,000 to \$1,500,000. After considering various factors for adjustments, Anderson's adjusted price per square foot ranged from \$11.12 to \$14.64. He determined \$12.47 was the appropriate price per square foot for the subject property and concluded a total value of \$1,905,088 (rounded to \$1,900,000).

Anderson's income approach was based on the direct capitalization method. He used market rent to determine his gross income based on six comparable facility rentals and adjusted for expenses to arrive at a net operating income of \$262,486. He developed a loaded capitalization rate of 11.61%. This generated an income value indication of \$2,260,861 (rounded to \$2,260,000.)

Dotty Bates, Poweshiek County Assessor, testified on behalf of the Board of Review. Bates testified that the 2010 sales ratio for commercial realty was 97.48%. We note, however, that an overall sales ratio, while potentially useful for mass appraisal purposes, does not support an individual assessment. Bates also presented a litany of warehouse listings. However, these listings have very basic information and were not adjusted to the subject property and are, therefore, of little import.

We find Anderson's appraisal to be the best evidence in the record. Even though it values the property at significantly less than the construction cost of the addition, the testimony and evidence suggests the cost to construct the property would not be returned in market value. The owners invested in keeping the property at its current location, and significant costs were expended to make the current property fit with the existing structure, including extensive site work and preparation. Anderson considered both the sales and income approaches to value to arrive at market value opinion that is less than the current assessment.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

"(1) that there are several other properties within a reasonable area similar and comparable...(2) the amount of the assessments on those properties, (3) the actual

value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

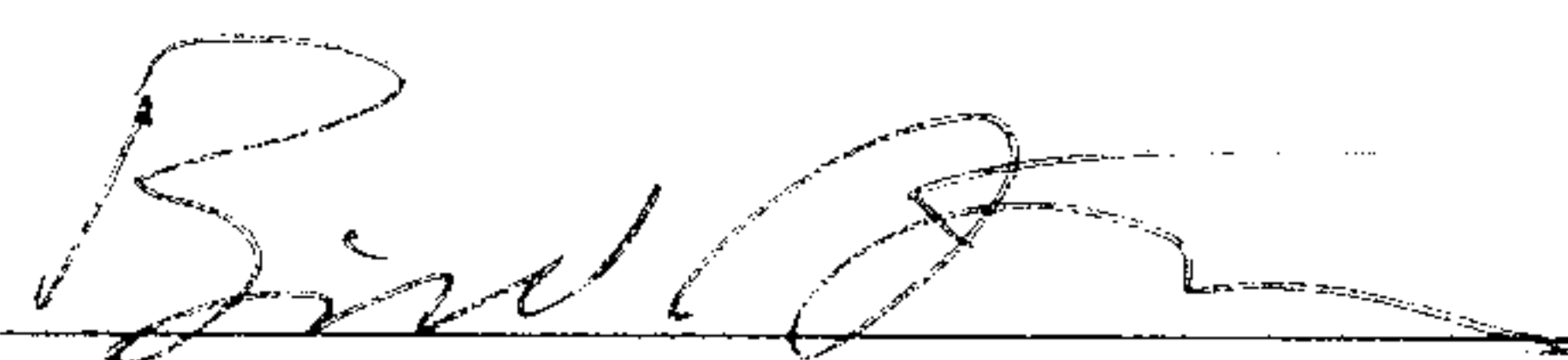
Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa law now requires assessments to be 100% of market value. § 441.21(1). The evidence offered by Brownells does not establish inequity in the assessment under the tests of *Eagle Foods* or *Maxwell*.

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Brownells’ appraisal establishes the subject property is over assessed. Anderson’s appraisal is reliable and the best evidence in the record of the property’s fair market value as of the assessment date. We, therefore, modify the assessment of the subject property located at 200 South Front Street, Montezuma, Iowa,

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Poweshiek County Board of Review be modified to a combined value of \$2,050,000. The allocated value between the two parcels shall be as follows: Parcel 450-3466500 is \$1,250,093 and Parcel 450-3260100 is \$799,907.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Poweshiek County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 25 day of July 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-25</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	